IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

SPL. APPL. WRIT No. 189 of 2001

SATYANARAYAN PUROHIT
V/S
STATE & ORS

Mr. SD VYAS, for the appellant / petitioner

Mr. HR SONI, AGA, for the respondent State

Date of Order : 12.12.2007

HON'BLE SHRI N P GUPTA,J.
HON'BLE SHRI MUNISHWAR NATH BHANDARI,J.

ORDER

By this appeal, the appellant seeks to challenge the judgment of learned Single Judge dated 04.09.2000, disposing the petitioner's writ petition.

The petitioner had sought the claim, for appointment by promotion on the post of LDC, on account of his being possessing qualification of Prathma, which was equivalent to the Secondary School Certificate Examination. The learned Single Judge has found, that this qualification was de-recognised w.e.f. 01.04.1985, and no appointment can be given, by promotion, on the basis of this qualification, after the said date of de-recognition. For this purpose, the learned Single Judge has relied upon couple of judgments of this Court.

This is pointed out by the learned counsel for the respondent, that in one of the matters, this Court had granted the relief in the writ petition, and had directed to give promotion to the writ petitioner, on the same ground as candidate was possessing qualification of Prathma therein also. That judgment was upheld by the Division Bench of this Court also, vide judgment dated 03.08.2000, and then the matter was agitated before the Hon'ble Supreme Court, and Hon'ble Supreme Court has vide its judgment dated 10.10.2007 rendered in Civil Appeal No.3836/2001 (State of Rajasthan Vs. Vishal Bhati) held, that the learned Single Judge was not correct in directing the State to promote the respondent in 1995 on the post based on the qualification certificate of 1984. It was also noticed, that in the meanwhile, a Full Bench judgment of the Hon'ble High Court was delivered in 1998, in the case of Shankar Lal Verma and Ors. to the same effect, and surprisingly, despite the Full Bench judgment, the judgment impugned before Hon'ble Supreme Court was passed. Thus, may be that in particular case, the Hon'ble Supreme Court looking into the peculiar circumstance, declined to dislodge the employee, but then, it was definitely held, that view taken by the Division Bench was not correct and cannot be sustained. In that view, the plea raised in the present case, stand squarely covered by the judgment of Hon'ble Supreme Court in Vishal Bhati's case.

Accordingly, we do not find any force in this appeal and therefore, the same is dismissed.

(MUNISHWAR NATH BHANDARI),J. (N P GUPTA),J.

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